



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Garrison
Serial No.: 10/743,615
For: RENEWABLE TEXTURED COSMETIC COMPOSITION
Filed: December 22, 2003
Examiner: G.C. Yu
Art Unit: 1617
Confirmation No.: 7572
Customer No.: 27,623

Attorney Docket No.: 680.0039USQ

THIRD DECLARATION UNDER 37 C.F.R. 1.132

I, Mark S. Garrison, declare the following:

THAT I prepared a foundation cosmetic composition substantially as disclosed in Example 2 of U.S. Patent No. 6,224,851 B1. I tested the composition to see if the surface appearance was self-renewing after being disturbed.

THAT I prepared the composition according to the following:

- 1) add twenty (20) grams of ethoxynonafluorobutane (CF-76[®] by 3M), five (5) grams of alkylmethicone copolyol (Abil WE 09[®] by Degussa), seven (7) grams of titanium dioxide (D9899 from Color Techniques Inc.) and ten (10) grams of cyclomethicone (DC 245 by Dow Corning) in a beaker with propeller mixing at moderate speed at room temperature for 10 minutes to form a fatty phase and

2) add water (qs 100 grams) to the fatty phase in the beaker at room temperature with propeller mixing to form the foundation.

THAT titanium dioxide was selected as "the pigments" in Example 2 since it is a commonly employed pigment in foundation compositions of light shades.

THAT the foundation composition took the form of a water-in-oil (W/O) emulsion as determined by dilution with oil soluble dye indicating oil was the continuous phase and appeared white in color under visual examination. The foundation composition exhibited a viscosity of 27,500 centipoise when measured by Brookfield RVT viscometer, spindle TC @ 4 RPM for a time of 1 minute.

THAT the foundation composition behaved as a soft cream and was scooped into a jar. A lid was screwed onto the open mouth of the jar such that it was hermetically sealed. Upon removal of the lid, the surface of the foundation composition was disturbed with the tip of a finger to create a trough or indentation therein. The lid was reapplied to the jar for a period of about sixty-six (66) minutes. Upon uncovering of the jar, the trough previously made by the finger remained clearly visible. The shape and form of the trough and other surface features of the foundation composition were substantially unchanged. The surface of the foundation composition was shown to not be self-renewing in the jar upon hermetic sealing. Fig. 1 shows the appearance of the surface after opening of the lid and prior to the surface being disturbed. Fig. 2 shows the appearance of the surface after it was disturbed and prior to the lid being reapplied. Fig. 3 shows the surface after the lid was removed after the sixty-six (66) minute period of application.

THAT I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Mark L. Lamsan
name

4/24/07
date



ATTACHMENT FOR FOURTH DECLARATION

Figure 1

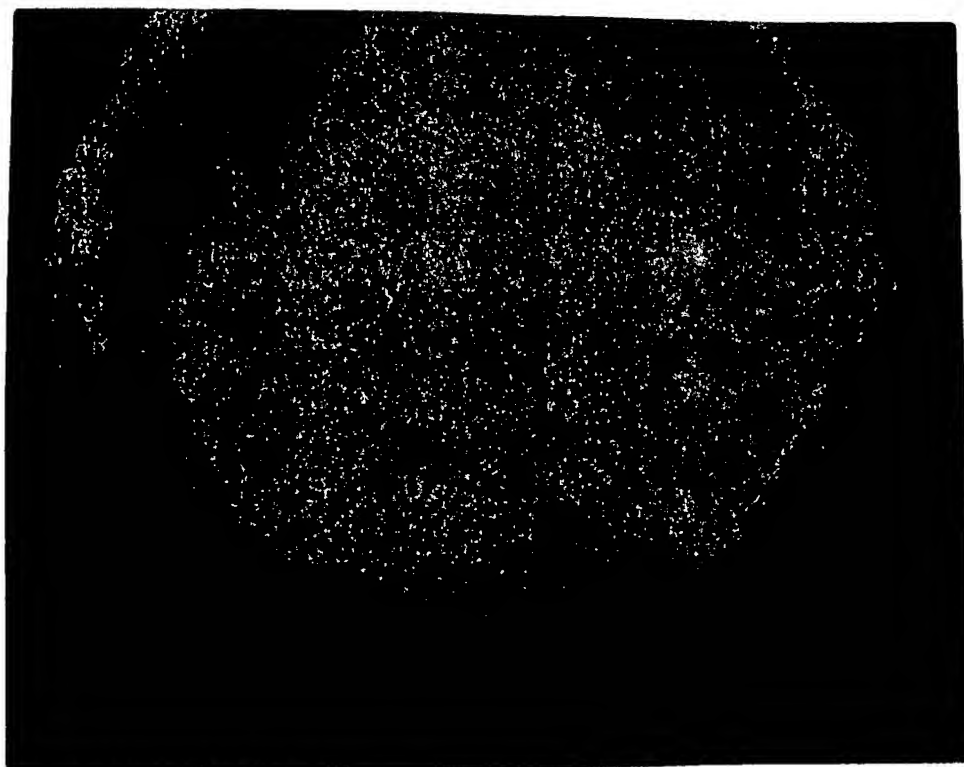


Figure 2

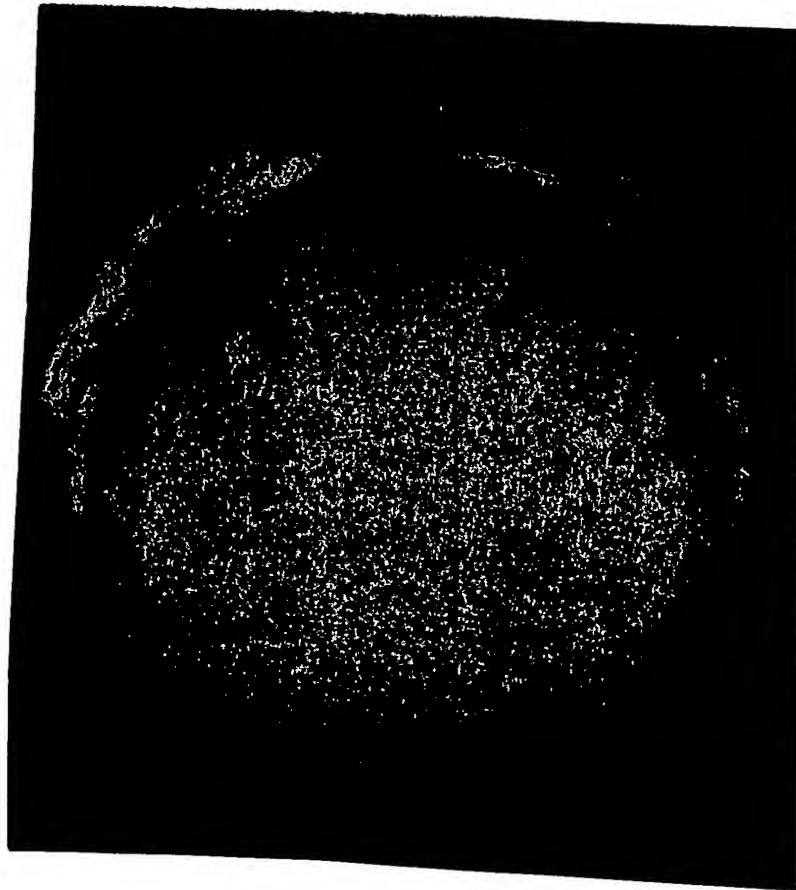


Figure 3

